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E.O. 11652: NA  
TAGS: SHUM, AR  
SUBJECT: SIGNIFICANT LEGAL DEVELOPMENTS

SUMMARY: THE FEDERAL COURT OF CRIMINAL APPEALS HAS FOUND THAT THE DETENTION OF FOURTEEN PODER EJECUTIVO NACIONAL (PEN) PRISONERS IS NOT JUSTIFIED, AS THE EXECUTIVE HAS NOT PROVIDED SPECIFIC REASONS FOR THEIR DETENTION UNDER THE SPECIAL STATE OF SIEGE POWERS. THE APPEAL COURT'S ORDER FREEING THE PRISONERS HAS BEEN STAYED AS THE CASE IS BEING APPEALED TO THE SUPREME COURT BY THE GOVERNMENT. END SUMMARY.

1. THE FEDERAL COURT OF CRIMINAL APPEALS HAS ISSUED AN ORDER OVERTURNING DECISIONS MADE BY FIVE LOWER COURT JUDGES WHICH UPHELD THE DETENTION OF FOURTEEN WOMEN PEN PRISONERS. ACCORDING TO PRESS REPORTS OF OCTOBER 14, THE CRIMINAL APPEALS COURT FOUND THAT THE GENERIC EXPLANATIONS OFFERED BY THE MINISTRY OF INTERIOR TO JUSTIFY THE DISMISSAL OF HABEAS CORPUS PROCEEDINGS AND THE CONTINUED DETENTION OF THE FOURTEEN WOMEN WERE NOT LEGALLY SUFFICIENT AS THEY DID NOT REFER TO SPECIFIC ACTIONS OF THE DETAINEES. IN ONE CASE

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REPORTEDLY SINGLED OUT BY THE APPEALS COURT, A WOMAN WAS HELD BECAUSE SHE BELONGED TO A STUDENT ORGANIZATION WHICH HAD LEFTIST ELEMENTS AMONG ITS MEMBERS.

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ARGENTINA PROJECT (S200000044)  
U.S. DEPT. OF STATE, A/RPS/IPS  
Margaret P. Grafeld, Director  
Exemption(s):  
(X) Release ( ) Excise ( ) Deny  
Declassify on: ( ) In Part (X) In Full  
Date: ( ) Classify as ( ) Extend as ( ) Downgrade to  
Reason: **DECLASSIFIED**

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2. THE CRIMINAL APPEALS COURT BASED ITS DECISION ON LEGAL REASONING IN THE CARLOS ZAMORANO CASE. IN THIS 1977 HABEAS CORPUS CASE, THE COURT OF APPEALS ORDERED MR. ZAMORANO, A COMMUNIST PARTY POLITICAL LEADER, FREED WHEN THE MINISTRY OF INTERIOR REFUSED TO PROVIDE ANY REASONS FOR MR. ZAMORANO'S TWO YEAR PLUS DETENTION. THE APPEALS COURT HELD THAT THE EXECUTIVE HAD TO PROVIDE A REASONABLE JUSTIFICATION FOR ANY DETENTION UNDER THE STATE OF SIEGE POWER AND THAT THE JUSTIFICATION WAS SUBJECT TO JUDICIAL REVIEW.

3. ON APPEAL, THE SUPREME COURT UPHELD THE COURT OF APPEALS DECISION AND STATED THAT UNLESS THE GOVERNMENT PROVIDED REASONABLE GROUNDS FOR ZAMORANO'S EXECUTIVE DETENTION HE SHOULD BE RELEASED. IN RESPONSE TO THE SUPREME COURT'S DECISION, THE MINISTRY OF INTERIOR PROVIDED INFORMATION REGARDING MR. ZAMORANO'S PRIOR POLITICAL ACTIVITIES. (MR. ZAMORANO'S LAWYER MAINTAINS THAT THE MOST SERIOUS OF THE "CHARGES" AGAINST HIS CLIENT REFERRED TO HIS ORGANIZATIONAL EFFORTS OF ANTI-VIET NAM DEMONSTRATIONS IN ARGENTINA.) AFTER REVIEWING THE MININT'S INFORMATION REGARDING MR. ZAMORANO'S POLITICAL ACTIVITIES, THE SUPREME COURT ISSUED A SECOND ZAMORANO DECISION UPHOLDING THE GOVERNMENT'S RIGHT TO DETAIN MR. ZAMORANO UNDER THE STATE OF SIEGE POWER.

4. THE FEDERAL ATTORNEY GENERAL HAS APPEALED THE  
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DECISION OF THE COURT OF APPEALS TO THE SUPREME COURT THUS STAYING THE FREEING OF THE FOURTEEN PEN PRISONERS.

5. EMBASSY COMMENT: THE FEDERAL COURT OF CRIMINAL APPEALS HAS BY ITS DECISION IN THE CASE OF THE FOURTEEN WOMEN CHALLENGED THE MINISTRY OF INTERIOR'S CURRENT PRACTICE STEMMING FROM THE ZAMORANO DECISIONS OF PROVIDING GENERIC EXPLANATIONS JUSTIFYING THE GOA'S PEN DETENTIONS. THE COURT OF APPEALS, CERTAINLY BOLSTERED BY THE SUPREME COURT'S RECENT HABEAS CORPUS DECISION DECLARING THE PEN DETENTION OF LA OPINION EDITOR TIMERMAN ILLEGAL, IS ATTEMPTING TO RAISE THE LEGAL STANDARDS NECESSARY TO JUSTIFY EXECUTIVE DETENTION.

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6. IF THE SUPREME COURT AFFIRMS THE COURT OF APPEALS  
DECISION THE MOST LIKELY RESULT WOULD LIKELY NOT BE THE  
JUDICIAL RELEASE OF THE FOURTEEN PRISONERS, BUT  
RATHER THE GOA'S BEING FORCED TO PRESENT SPECIFIC  
FACTUAL JUSTIFICATIONS FOR THESE AND , EVENTUALLY PERHAPS,  
ITS OTHER 3200 PEN DETAINEES. END COMMENT.  
CASTRO

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